

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Release of the original Water and Sewer Maintenance Agreement with Letter of Credit for the project known as Grande Oaks

DEPARTMENT: Environmental Services

DIVISION: Business Office

AUTHORIZED BY: Joe Forte, Andrew Neff

CONTACT: Becky Noggle

EXT: 2143

MOTION/RECOMMENDATION:

Approve the Release of the original Water and Sewer Maintenance Agreement with Letter of Credit in the amount of \$131,400.00 for the project known as Grande Oaks.

District 5 Brenda Carey

Bob Briggs

BACKGROUND:

The following project has satisfactorily completed the two (2) year maintenance inspection by the Water and Sewer Division. Release Water and Sewer Maintenance Agreement with Letter of Credit # 55101329 dated 05/11/2007 in the amount of \$131,400.00 for water and sewer which was accepted by Submission Memorandum into County Records for the project known as Grande Oaks.

STAFF RECOMMENDATION:

Staff recommends that the Board approve the release of the original Water and Sewer Maintenance Agreement with Letter of Credit in the amount of \$131,400.00 for the project known as Grande Oaks.

ATTACHMENTS:

1. Request for Release and Copy of LOC

Additionally Reviewed By: No additional reviews



1450 Lake George Drive
Lake Mary, Florida 32746

T: 407.829.8961

F: 407.829.8962

KOLTERhomes.com

August 6, 2009

Becky Noggle
Seminole County Water and Sewer
500 West Lake Mary Blvd
Sanford, FL 32773

Re: Maintenance Bond Release

Project Name : Grande Oaks
LOC # 55101329
Amount \$131,400.00
District 5

Dear Becky:

We are requesting the return of the above referenced Maintenance Bond since we have completed all the requirements.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Bovio', written over a horizontal line.

Steven V. Bovio
Project Manager

ENVIRONMENTAL SERVICES DEPARTMENT



August 2, 2009

Heathrow Oaks LLC
1450 Lake George Dr
Lake Mary, FL 32746

Re: Maintenance Agreement w/ LOC

Project Name: Grande Oaks
LOC# 55101329
Amount: \$131,400.00
District #5

To Whom It May Concern:

Pursuant to Seminole County's Land Development Code (LDC) requirements, Chapter 35, Part 8, Sec. 35.902 (H) (1,2) the County conducted an inspection of the referenced project on 7/29/2009 to insure that any maintenance problems or design deficiencies which manifested themselves during the maintenance period were addressed prior to expiration of the Bond.

As of 7/29/2009, the Seminole County Water and Sewer Inspector found no deficiencies. Therefore, the above mentioned Maintenance Agreement may be released as required by the Land Development Code.

Please send request for release of the original Maintenance Bond on your letterhead to Becky Noggle, 500 W Lake Mary Blvd., Sanford, FL 32773. LOC/Bonds are to be released by the Board of County Commissioners through a Regular Board Session.

If you have any questions, please contact Becky Noggle @ 407-665-2143.

Sincerely,

Brent Keith
Sr. Utilities Inspector

c: Project File

MAINTENANCE AGREEMENT
(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this 11th day of May, 2007, between Heathrow Oaks, LLC, hereinafter referred to as "PRINCIPAL" and SEMINOLE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY".

WITNESSETH:

WHEREAS, PRINCIPAL has constructed certain water and sewer improvements, including water lines, sewer lines, lift stations and other appurtenances in that certain subdivision described as Grande Oaks, as recorded in Plat Book 71 Pages 47-52, Public Records of Seminole County, Florida, hereinafter referred to as the "Plat"; and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated September 9, 2005 (as subsequently revised or amended on N/A, 20__) and filed with the COUNTY Department of Environmental Services; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said water and sewer improvements and to maintain said water and sewer improvements for a period of two (2) years from May 11th, 2007; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL, PRINCIPAL has obtained and furnished to the COUNTY, a certain Irrevocable Letter of Credit No. 55101329 Issued by AmSouth Bank, in the sum of One Hundred Thirty One Thousand Four Hundred DOLLARS (\$131,400.00).

NOW, THEREFORE, the COUNTY agrees to accept the water and sewer improvements into the COUNTY Utility System upon execution of this Agreement and to accept an Irrevocable Letter of Credit as security for the maintenance obligation of the PRINCIPAL.

PRINCIPAL, its heirs, executors, successors, and assigns, jointly and severally agrees to be held and firmly bound to the COUNTY in the sum of One Hundred Thirty One Thousand Four Hundred DOLLARS (\$131,400) on the condition that, if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid water and sewer improvements and maintain said water and sewer improvements for a period of two (2) years from May 11, 2007, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The COUNTY Department of Environmental Services shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall correct said defect.

Should the PRINCIPAL fail or refuse to perform or correct said defects within the time specified, the COUNTY shall be authorized, but shall not be obligated, to take over and perform, or cause to be performed, such work as shall be necessary to correct such defects, and shall be authorized to draw upon the Letter of Credit to pay the cost thereof, including, but not limited to, engineering, legal and contingent costs. Further, the COUNTY, in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including, specifically, specific performance, to which the PRINCIPAL unconditionally agrees.

The PRINCIPAL further agrees that the COUNTY, at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or pursuant to public advertisement and receipt of bids, cause to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and, in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL shall be obligated hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure to the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

ATTEST:

(CORPORATE SEAL)

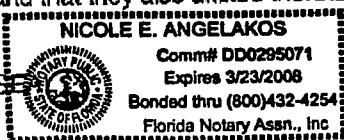
By: H. M. M. M.

Date: 5/14/2007

Hathrow Oaks LLC

I HEREBY CERTIFY that, on this 14 day of May, 2007, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Howard Epstein and inager as President and Secretary, respectively, of Hathrow Oaks LLC, a _____ organized under the laws of the State of Florida, who are personally known to me or who have produced _____ as identification and that they did take an oath. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the corporation, and that they also affixed thereto the official seal of the corporation.

NOTARY SEAL



Nicole E. Angelakos
Notary Public Signature Nicole E. Angelakos

WITNESSES:

Becky N. N.
Sam B. M.

DEPARTMENT OF PUBLIC WORKS
UTILITIES DIVISION
SEMINOLE COUNTY, FLORIDA

St. B. B.

Utilities Manager

Date: 6/11/07

Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda Items and approved on April 2, 1997.

AmSouth Bank

IRREVOCABLE STANDBY LETTER OF CREDIT NO. 55101329
TRANSACTION DATE: MAY 31, 2007
EXPIRY DATE: MAY 31, 2008
AMOUNT: \$131,400.00

BENEFICIARY:
SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY SERVICES BUILDING
1101 EAST FIRST STREET
SANFORD, FLORIDA 32771

ATTN: TONY WALKER
PHONE: 407-665-7349

APPLICANT:
HEATHROW OAKS, LLC
1601 FORUM PLACE
SUITE 805
WEST PALM BEACH, FLORIDA 33401

DEAR COMMISSIONERS:

BY ORDER OF HEATHROW OAKS, LLC., WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON REGIONS BANK AS SUCCESSOR BY MERGER TO AMSOUTH BANK UP TO AN AGGREGATE AMOUNT OF \$131,400.00 (ONE HUNDRED AND THIRTY-ONE THOUSAND FOUR HUNDRED AND 00/100 UNITED STATES DOLLARS) AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS THAT THE MAINTENANCE AGREEMENT DATED MAY 11, 2007, BETWEEN HEATHROW OAKS, LLC., AND SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND NEGOTIATED ON OR BEFORE MAY 31, 2008, AND EACH DRAFT MUST STATE THAT IT IS DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. 55101329 OF REGIONS BANK AS SUCCESSOR BY MERGER TO AMSOUTH BANK DATED MAY 31, 2007, AND THE AMOUNT THEREOF ENDORSED ON THIS LETTER OF CREDIT. THE BANK AGREES THAT THIS LETTER OF CREDIT SHALL AUTOMATICALLY RENEW ITSELF FOR SUCCESSIVE ONE YEAR PERIODS UNLESS THE BANK SHALL GIVE NOTICE TO YOU NO LATER THAN FORTY FIVE (45) DAYS PRECEDING AN EXPIRATION DATE THAT IT CHOOSES NOT TO RENEW THE LETTER OF CREDIT, IN WHICH CASE, THE COUNTY SHALL BE ENTITLED TO DEMAND AND RECEIVE THE OUTSTANDING AMOUNT OF MONEY REPRESENTED BY THIS LETTER OF CREDIT. IN THE EVENT A DRAW BASED ON EXPIRATION OF THIS LETTER OF CREDIT THE PROCEEDS SHALL BE HELD BY SEMINOLE COUNTY AS A CASH BOND TO SECURE CONTINUED ADHERENCE TO THE TERMS OF THE MAINTENANCE AGREEMENT WITH HEATHROW OAKS, LLC.

UPON TENDER OF PAYMENT, YOU WILL RELEASE TO THE BANK THE ORIGINAL IRREVOCABLE LETTER OF CREDIT MARKED "CANCELLED". IN ANY EVENT, UPON EXPIRATION OF THE MAINTENANCE AGREEMENT DATED MAY 11, 2007 AND THE COMPLETION OF HEATHROW OAKS, LLC., OBLIGATIONS THEREUNDER, YOU WILL RETURN THE ORIGINAL LETTER OF CREDIT TO THIS BANK MARKED "CANCELLED."

AmSouth Bank

Our reference Number: 55101329

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WE HEREBY ENGAGE WITH DRAWERS, ENDORSERS, AND BONA FIDE HOLDERS OF ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT, THAT SUCH DRAFTS WILL BE DULY HONORED UPON PRESENTATION TO THE DRAWEE AT: 417 NORTH 20TH STREET, 5TH FLOOR, HOOVER, ALABAMA 35203, ATTN: INTERNATIONAL DEPARTMENT.

IF THE BOARD OF COUNTY COMMISSIONERS INITIATES SUIT UNDER THIS LETTER OF CREDIT, HEATHROW OAKS, LLC., HEREBY AGREES TO BE RESPONSIBLE FOR SEMINOLE COUNTY'S COURT COSTS AND REASONABLE ATTORNEY'S FEES, BUT HEATHROW OAKS, LLC., SHALL NOT BE RESPONSIBLE FOR ANY ATTORNEYS' FEES IN EXCESS OF FIFTEEN PERCENT (15%) OF THE AGGREGATE AMOUNT OF THIS LETTER OF CREDIT.

THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING AND SUCH UNDERTAKING SHALL NOT, IN ANY WAY, BE AMENDED BY REFERENCE HEREIN TO ANY AGREEMENT, AND ANY SUCH REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCE ANY DOCUMENT OR AGREEMENT OTHER THAN THE MAINTENANCE AGREEMENT DATED MAY 11, 2007, AND REFERENCED HEREIN.

THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98) WHICH WAS EFFECTIVE JANUARY 1, 1999.

SINCERELY,


JARROD LANDERS
AUTHORIZED SIGNATURE

ATTEST:


BANK VICE-PRESIDENT

AMSOUTH BANK IS NOW REGIONS BANK